

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

TENTATIVE ORDER NO. R9-2002-342

WASTE DISCHARGE REQUIREMENTS
FOR THE DISPOSAL AND/OR REUSE OF
PETROLEUM FUEL CONTAMINATED SOILS (FCS)
IN THE SAN DIEGO REGION

The California Regional Water Quality Control Board, San Diego Region (hereinafter the RWQCB) finds that:

1. California Water Code Section 13260(a) requires that any person discharging waste or proposing to discharge waste within any Region, other than to a community sewer system, that could affect the quality of the waters of the State, file a Report of Waste Discharge (RWD).
2. Under authority of Water Code Section 13263(d), the RWQCB may prescribe waste discharge requirements although no report of waste discharge has been filed.
3. California Water Code Section 13263(a) requires that California Regional Water Quality Control Board prescribe requirements for existing and proposed discharges in their respective areas of jurisdiction.
4. California Code of Regulations, Title 27 (27 CCR), Article 1, commencing with Section 20080 contains requirements governing discharges of nonhazardous solid wastes to land.
5. The issuance of this Order establishing general waste discharge requirements is consistent with the State Water Resources Control Board Strategic Plan and its goal to provide water resources protection, enhancement and restoration while balancing economic and environmental impacts.
6. Pursuant to Water Code Section 13263(i), the RWQCB finds that:
 - a. For the purposes of this Order, petroleum fuel contaminated soils ("*FCS wastes*") are defined as soils containing elevated concentrations, above natural background concentrations, of constituents from the following fuel sources: gasoline, aviation gasoline ("av-gas"), diesel fuel, jet fuels (Jet A, JP-4 and JP-5), kerosene, and fuel oils. FCS wastes are commonly created as a result of unauthorized releases (leaks) of petroleum fuel constituents from a number of similar fuel containment systems, including leaking underground storage tank systems, leaking fuel pipelines, and leaking above ground storage tank systems. FCS wastes are categorically classified as "designated wastes" pursuant to Water Code Section 13173.

- b. Unauthorized releases of gasoline and diesel fuel constituents into soils from fuel containment systems identified in Finding 6.a. result in the same or similar types of wastes (*i.e.*, fuel contaminated soils).
- c. FCS wastes used as engineered fill must be consistent with the criteria for "inert wastes" as identified in California Code of Regulations, Title 27, § 20230. Therefore, FCS wastes require the same or similar treatment standards for disposal and/or reuse as engineered fill.
- d. The dischargers are more appropriately regulated under general discharge requirements than individual discharger requirements because:
 - i. The regulated reuse of FCS wastes in redevelopment projects is an effective alternative to disposing of those wastes in existing municipal solid waste landfills.
 - ii. Projects involving disposal and/or reuse of FCS wastes commonly require the implementation of the same or similar waste characterization protocols, waste management/containment criteria, and site-specific criteria for the protection of water quality.
 - ii. These General WDRs would reduce RWQCB time expended on preparing and considering individual waste discharge requirements for each project.
 - iii. These General WDRs would significantly simplify and expedite the application process for the dischargers.
 - iv. These General WDRs would allow the RWQCB to more effectively and efficiently regulate discharges of FCS wastes for disposal and/or reuse in the San Diego Region.
- 7. The RWQCB finds that the uncontrolled discharge of FCS wastes may adversely affect the waters of the state.
- 8. On May 16, 1995 this RWQCB adopted Resolution No. 95-63: "A Resolution Conditionally Waiving Adoption of Waste Discharge Requirements for Disposal/Reuse of Petroleum Hydrocarbon Fuel Contaminated Soils (FCS)."
- 9. On February 13, 1997, the RWQCB adopted Addendum No. 1 to Resolution No. 95-63. Addendum No. 1 placed additional use restrictions upon the reuse/disposal of FCS wastes.

10. On October 10, 1999, Senate Bill 390 was signed into law amending Water Code Section 13269 and 13350. As a result of those amendments, all of the RWQCB's existing conditional waivers will expire on January 1, 2003.
11. The RWQCB has notified interested parties of its intent to adopt Order No. R9-2002-342, superseding Resolution No. 95-63 and addenda thereto.
12. Because there is a potential impact to water quality from the uncontrolled discharge (reuse/disposal) of FCS wastes to land, the RWQCB finds that the discharges of FCS wastes are of category 3-C as defined Title 23, Section 2200. Category "3" – include those discharges of waste that could degrade water quality without violating water quality objectives, or could cause a minor impairment of designated beneficial uses. A complexity rating of "C" is assigned to any discharge for which waste discharge requirements have been prescribed pursuant to Section 13263 of the Water Code not included as a Category "A" or Category "B". Included would be discharges having no waste treatment systems or that must comply with best management practices.

CEQA COMPLIANCE

13. On November 15, 1993, the RWQCB adopted a Negative Declaration (Resolution No. 93-103) for three types of discharges, including the disposal and reuse of petroleum hydrocarbon fuel contaminated soils. This action complies with the requirements of the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.) and State guidelines. In adopting the Negative Declaration, the RWQCB determined that discharges wastes meeting the specified conditions would not result in any significant adverse water quality impacts.

OTHER LEGAL REFERENCES

14. The **Water Quality Control Plan Report, San Diego Basin (9)** (hereinafter Basin Plan), was adopted by this RWQCB on September 8, 1994, and subsequently approved by the State Water Resources Control Board (State Board) on December 13, 1994. The Basin Plan designates beneficial uses and narrative and numerical water quality objectives, and discharge prohibitions applicable to the discharges regulated under this Order.
15. The Basin Plan designates the following beneficial uses for ground waters resources within the San Diego Region:
 - a. Municipal and domestic water supply (MUN)
 - b. Agricultural water supply (AGR)

- c. Industrial service supply (IND)
 - d. Industrial process supply (PROC)
16. The Basin Plan designates some or all of the following beneficial uses of surface water resources located within the San Diego Region:
- a. Municipal and domestic supply (MUN)
 - b. Agricultural supply (AGR)
 - c. Industrial service supply (IND)
 - d. Industrial process (PROC)
 - e. Groundwater recharge (GWR)
 - f. Freshwater replenishment (FRSH)
 - g. Navigation (NAV)
 - h. Hydropower generation (POW)
 - i. Water contact recreation (REC1)
 - j. Noncontact water recreation (REC2)
 - k. Commercial and sport fishing (COMM)
 - l. Warm freshwater habitat (WARM)
 - m. Cold freshwater habitat (COLD)
 - n. Preservation of areas of special biological significance (BIOL)
 - o. Inland saline water habitat (SAL)
 - p. Wildlife habitat (WILD)
 - q. Preservation of rare and endangered species (RARE)
 - r. Marine habitat (MAR)
 - s. Migration of aquatic organisms (MIGR)
 - t. Spawning, reproduction, and/or early development (SPWN)
 - u. Shellfish harvesting (SHELL)
 - v. Estuarine habitat (EST)
 - w. Aquacultural (AQUA)
17. Discharges (i.e., for reuse/disposal) of FCS wastes may occur in areas that overlie ground water basins designated as suitable for uses including municipal and domestic public water supplies. Applicable numeric and narrative water quality objectives for groundwater resources are promulgated in Chapter 3 of the Water Quality Control Plan for the San Diego Region.
18. Discharges (i.e., for reuse/disposal) of FCS wastes may occur in areas located in proximity to surface waters that support beneficial uses including recreation (REC1 and REC2) and support of fish and wildlife (COLD, WARM, WILD, RARE). Applicable numeric and narrative water quality objectives for surface water resources are promulgated in Chapter 3 of the Water Quality Control Plan for the San Diego Region.

19. Additional State water quality criteria for beneficial uses of water resources as a public drinking water supply are promulgated in California Code of Regulations (CCR), Title 22, Division 4, Chapter 15, Article 4, §64431 (Primary MCLs for inorganic chemicals), §64443 (MCLs for man-made radioactivity), §64444 (Primary MCLs for organic chemicals), §64449 (Secondary MCLs), and Chapter 17.5, Article 1, §64672.3 (copper and lead action levels).
20. Additional State and Federal water quality criteria for protection of beneficial uses of surface water resources are promulgated by the U.S. Environmental Protection Agency as the California Toxics Rule (CTR) as implemented by State Water Resources Control Board Resolution Nos. 2000-015 and 2000-030.
21. This Order does not preempt or supersede the authority of other State and local agencies to prohibit, restrict, or control discharges of waste subject to their jurisdiction.
22. The RWQCB finds that a variety of approaches may be effective as Best Management Practices (BMPs) for control of surface water runoff and erosion of soils/sediments and FCS wastes. Deployment of bonded fiber matrix materials, anchored fiber rolls, and fiber blankets, among other measures, can be effective BMPs for erosion control and conveyance of surface water runoff if designed and applied as appropriate for site-specific conditions.
23. For applicable projects, it is appropriate for the discharger to file the required notice of intent (NOI) and application fee for coverage under State Board Order No. 99-08-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002, "Waste Discharge Requirements for Discharges of Storm Water Associated Construction Activity."
24. Under the conditions of this Order, dischargers may find it necessary to establish and maintain temporary waste piles of FCS wastes. Therefore, it is appropriate for this Order to include waste discharge requirements for regulating the discharges of FCS wastes into temporary waste piles.
25. The RWQCB has considered all water quality related environmental factors associated with the category of waste discharges (reuse/disposal) covered by this order.
26. The RWQCB has notified potential dischargers and all other known interested parties of the intent to prescribe WDRs as described in this order.
27. The RWQCB, in a public meeting, heard and considered all comments pertaining to the proposed discharge.

IT IS HEREBY ORDERED, that each person enrolled in this Order (hereinafter the "discharger"), meet the provisions contained in Division 7 of the California Water Code and regulations adopted therein and shall comply with the following:

A. ENROLLMENT PROCEDURE

1. In order to enroll for coverage under this Order, the discharger shall submit the FCS certification from (attached to this Order) and appropriate filing fee for each location/property proposed to receive a discharge of FCS wastes. The Report of Waste Discharge (RWD) shall include the following:
 - a. Application/Report of Waste Discharge general information form (Form 200) filled out in accordance with the instructions.
 - b. Completed FCS certification form filled out in accordance with the instructions.
 - c. Copies of all analytical results, associated laboratory data sheets, including QA/QC data and chain of custody documents.
 - d. A discussion of the discharge site and petroleum hydrocarbon FCS (waste) characteristics including:
 - i. Identification of the period during which waste is to be disposed of at the site;
 - ii. Description of disposal methods, operation and maintenance activities;
 - iii. Description of types and quantities of waste to be disposed of;
 - iv. Present and future land use.
 - e. The discharger shall file a notice of intent (NOI) and application fee, as applicable, for coverage under State Board Order No. 99-08-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002, "Waste Discharge Requirements for Discharges of Storm Water Associated Construction Activity."
 - f. Documentation of how the discharger will comply with all applicable requirements of this Order and Monitoring and Reporting Program R9-2002-342.
 - g. A topographic map at an appropriate scale and other information clearly illustrating the location, owners, and uses of all wells located within one mile of the site.

- h. Any other information pertinent to the protection of water quality or public health and prevention of nuisance.
2. Discharges of FCS waste (for reuse/disposal) may be enrolled through the procedure identified in **Section A** of this Order or by the RWQCB under the authority cited in **Finding 2**. In either case, the discharger may receive written notification from the RWQCB stating whether it is appropriate to regulate the inactive landfill under these general waste discharge requirements (WDRs), or that individual WDRs are required.
3. It may be necessary for a discharger authorized under this Order to apply for and obtain an individual waste discharge requirements (WDRs) with more discharge- specific requirements. When individual WDRs are issued to a discharger, the applicability of this general permit to the individual enrollee shall be terminated on the effective date of the individual WDRs.
4. Notwithstanding the conditions specified above, individual cases may be brought to the RWQCB for consideration of waste discharge requirements when deemed appropriate.

B. DISCHARGE PROHIBITIONS

1. Discharges of wastes to land for treatment, storage, or disposal are prohibited; unless the RWQCB has issued valid Waste Discharge Requirements for that discharge.
2. The acceptance or discharge of "hazardous waste" is prohibited. For the purposes of this Order, the term "hazardous waste" is as defined in California Code of Regulations (CCR) Title 22, Division 4.5, § 66261 *et seq.*
3. The acceptance or discharge of soils containing "waste oil", under the definition of California Health and Safety Code Section 25250.4, is prohibited.
4. The acceptance or discharge of FCS wastes containing waste constituents, other than those listed in Table 1, above natural background concentrations is prohibited.
5. The disposal/reuse of FCS wastes to land is prohibited unless the required application (From 200), application fee, and FCS certification report for the discharge has been submitted to the RWQCB.
6. The discharge of solid waste containing free liquid or moisture, in excess of the waste's moisture holding capacity, is prohibited.

7. The dumping, deposition, or discharge of waste directly into waters of the state, or adjacent to such waters in any manner, under which wastes may be transported into the waters, is prohibited unless authorized by the RWQCB.
8. The discharge of waste or waste constituents to ground water or surface waters at, beneath, or adjacent to the facility is prohibited.
9. The discharge of wastes in a manner that creates nuisance conditions (from odors, vectors, and other nuisances) is prohibited.
10. The discharge of waste to waters of the state in a manner causing, or threatening to cause a condition of pollution, contamination or nuisance as defined in California Water Code Section 13050, is prohibited.
11. Basin Plan discharge prohibitions shall not be violated.

C. DISCHARGE SPECIFICATIONS

Discharges of FCS wastes shall comply with all of the following specifications:

1. DOCUMENTATION FOR SOURCE(S) OF FCS WASTE

Provide the RWQCB with a completed FCS certification form and supporting analytical data (per **Section A.1.** of this Order) for each individual source of FCS waste discharged at the site.

2. SITE CONDITIONS

The proposed disposal site shall meet the following minimum conditions:

- a. **Groundwater Dependent Area Protection:** The disposal site shall not be located in an area that is dependent on groundwater for the sole source of drinking water.
- b. **Industrial Reuse Restriction:** The disposal site shall only have an industrial or commercial use such as a road bed, commercial fill site or other use that limits potential human exposure. Residential properties shall not to be used as disposal sites. If a structure is to be constructed over the disposal site an approval must be obtained from the appropriate local agencies
- c. **Separation from Ground Water:** The FCS waste shall be placed at least five feet above the highest anticipated level of ground water. The soil that separates the FCS

waste from groundwater shall have a significant clay content (greater than 5% clay-sized material) or a permeability of less than 10^{-5} cm/sec.

- d. **Separation from Surface Water:** The waste shall be placed at least 100 feet from the nearest surface water.
- e. **Flood Plan Protection:** The waste shall be protected against 100 year peak stream flows as defined by the County flood control agency.
- f. **Cover:** The waste shall be covered by either 1) engineered materials (e.g. used as road base, fill beneath buildings, bridge abutments), or 2) not less than 2 feet of noncontaminated, clean fill. The cover shall either provide a permeability of 10^{-5} cm/sec, or it shall be soil compacted to maximum 90% relative maximum compaction. Placement of a cover on the waste shall be completed with 30 days of revising/discharging the final load of wastes at the site.
- g. **Property Owner Acknowledgment:** By signature on the attached FCS certification form written correspondence to the RWQCB, the property owner shall approve the placement of the FCS waste at the site.

3. FUEL CONSTITUENT CONCENTRATION LIMITS

The results of sampling and analyses of FCS wastes shall be subject to either the primary level (a) **and/or** the secondary level (b) conditions listed below.

- a. *Primary Level Conditions (First Tier):* The upper 80% confidence interval value of the mean concentrations resulting from the primary analyses of the samples shall not exceed the concentration limits for the primary constituents of concern listed in **Table 1**. If the primary level conditions are not met, the FCS waste samples exhibiting the highest concentrations as a result of the primary analyses (**a minimum of 4 samples for all parameters tested**) shall be further analyzed for the secondary constituents of concern (**Table 2**).

Table 1. Primary Concentration Limits for Fuel Constituents in FCS wastes

Type of Contaminant	Constituent of Concern	Carbon Range	Concentration Limit
Gasoline/Av-Gas	TPH-Gasoline	C ₆ -C ₁₂	≤10 mg/kg
Diesel Fuel/ kerosene/ jet fuel/ bunker fuel	TPH-Diesel	C ₁₀ -C ₃₀	≤100 mg/kg
ALL	Benzene		≤1 µg/kg
ALL	Toluene		≤150 µg/kg
ALL	Ethylbenzene		≤700 µg/kg
ALL	Xylenes		≤1,750 µg/kg
Gasoline	MTBE		≤ 13 µg/kg

KEY to TABLE 1:

Gas/Av-Gas = concentration limit required for FCS containing gasoline and aviation gasoline constituents

Gasoline = concentration limit required for FCS containing only gasoline constituents

Diesel Fuel/ kerosene/ jet fuel/ bunker fuel = concentration limit required for FCS containing the listed fuel constituents

ALL = analyses required for FCS containing any fuel constituent identified in this Order.

- b. *Secondary Level Conditions (Second Tier):* The upper 80% confidence interval value of the mean concentrations resulting from the secondary analyses shall not exceed the concentration limits for the secondary constituents of concern listed in **Table 2.**

**Table 2. Secondary (Leachable) Concentration Limits for Fuel
Constituents in FCS Wastes**

Type of Contaminant	Constituent of Concern	Carbon Range	Concentration Limit
Gas/Av-Gas	TPH-Gas	C ₆ -C ₁₂	≤ 100 mg/kg
Diesel Fuel/ kerosene/ jet fuel/ bunker fuel	TPH- Diesel	C ₁₀ -C ₃₀	≤ 500 mg/kg
Diesel Fuel/ kerosene/ jet fuel/ bunker fuel	TPH-Diesel	C ₁₀ -C ₃₀	≤50 µg/L
ALL	Benzene		≤0.5 µg/L
ALL	Toluene		≤75 µg/L
ALL	Ethylbenzene		≤350 µg/L
ALL	Xylenes		≤900 µg/L
Gasoline	MTBE		≤ 7 µg/L

KEY to TABLE 2:

Gas/Av-Gas = concentration limit required for FCS containing gasoline and aviation gasoline constituents

Gasoline = concentration limit required for FCS containing only gasoline constituents

Diesel Fuel/ kerosene/ jet fuel/ bunker fuel = concentration limit required for FCS containing the listed fuel constituents

ALL = analyses required for FCS containing any fuel constituent identified in this Order.

4. EROSION CONTROLS AND STORMWATER PROTECTION

The discharger shall develop and implement best management practices (BMPs) for effective control of erosion and discharges of wastes from the site. Sites receiving discharges of FCS wastes for reuse/disposal, under this Order, shall comply with the requirements of Order 99-08-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002, "Waste Discharge Requirements for Discharges of Storm Water Associated Construction Activity."

5. DISCHARGES OF WASTES TO TEMPORARY WASTE PILES

Any discharger who creates temporary waste piles containing FCS wastes, prior to the final discharge, for reuse or disposal of FCS wastes, shall comply with the following requirements:

- a. **Site Conditions:** All parcels of land/property receiving a temporary discharges of FCS wastes (i.e., temporary waste piles) under this Order, shall meet the following minimum general site conditions:
 - i. **Runon/Runoff Protection:** Surface drainage shall be diverted from the temporary waste piles. For all waste piles, the dischargers shall implement effective Best Management Practices (BMPs) to prevent surface water runon and runoff from contacting wastes and to prevent erosion and transport of wastes by surface runoff.
 - ii. **Groundwater Protection:** All waste piles shall be placed at least five feet above the highest anticipated level of groundwater.
 - iii. **Surface Water Protection:** All waste piles established under this waiver shall be located not less than 100 feet from any surface water identified in the Basin Plan.
 - iv. **Flood Plain Protection:** All waste piles shall be protected against 100-year peak stream flows as defined by the County flood control agency.
- b. **Inspection and Maintenance:** The discharger shall regularly inspect and maintain wastes discharged to temporary waste piles established under this Order. Inspections shall be conducted at a frequency that will ensure the discharge of FCS wastes does not create conditions of pollution or nuisance. The discharger shall report on the disposition of all temporary waste piles at the time of the final inspection conducted pursuant to **Section E (INSPECTION RESULTS)** of this Order.
- c. **Clean Closure Required:** The discharger shall properly dispose of the following in accordance with all applicable requirements and regulations: all waste piles established under this Order, together with any materials used to contain the temporary waste piles, underlying geologic materials contaminated by the discharge, treatment facilities, and related equipment.

- d. **Management of Return or Poned Water:** If return water or ponded water contained within the treatment or storage area of the temporary waste pile will be disposed of at a location other than to a sanitary sewer system, then the discharger shall submit written notification to the RWQCB prior to initiating the discharge and either: 1) obtain waste discharge requirements; 2) obtain a waiver of waste discharge requirements or 3) obtain a written determination from the RWQCB Executive Officer that the disposal of the return water or ponded water is not subject to regulation by the RWQCB.
- e. **Property Owner Acknowledgment:** By written correspondence to the RWQCB, the property owner shall approve the placement of the waste (temporary waste piles) at the site.
- f. **Public Notification Requirement:** The discharger shall post at least one clearly visible, sign (in english) listing the following minimum information: a.) project name, b.) name and address of discharger, c.) brief project description, and d.) 24-hour contact information – name, address, facsimile, and telephone number for the project. The discharger shall post additional signs as necessary (in languages other than english) to more effectively communicate the minimum contact information (listed above) to the local community. The sign(s) shall be maintained as required to keep them legible and remain in place while temporary waste piles remain on site.
- g. **Obligation to Comply:** Compliance with this Order does not relieve discharger of the obligation to comply with any other applicable local, state and federal requirements.
- h. **Maximum Time Limit.** Temporary waste piles established under this Order shall be limited to a maximum time period of **30-days** after the RWQCB receives the final technical report required in **Section F (FINAL DISPOSITION OF WASTE)** of this Order.
- i. **Source(s) of FCS Waste:** The discharger shall provide the RWQCB with complete information, for each source of FCS wastes, as required by **Section C.1 (DISCHARGE SPECIFICATIONS)** of this Order. All solid wastes discharged into temporary waste piles established under the Order be derived from only one source (e.g., unauthorized release site).
- j. **Cover:** All waste piles shall be overlain by plastic sheeting (not less than 10 mils thick) to adequately prevent infiltration of rainwater, control fugitive dust, and other nuisances.

- k. **Liner:** All waste piles shall be underlain by either plastic sheeting (not less than 10 mils thick) or a liner of low permeability approved by the RWQCB.

D. REPORTING REQUIREMENTS

1. GENERAL REPORTING REQUIREMENTS

The discharger is required to comply with the following minimum reporting requirements:

- a. Submit to the RWQCB a FCS certification report (form attached to this Order) at least **30 days** prior to reuse or disposal of FCS wastes at a site, other than a Classified waste management unit. Comments received in response to the public notification are to be forwarded to the RWQCB with the certification report.
- b. Pursuant to Section 13260(a) of the California Water Code, prior to disposal, submit a Report of Waste Discharge (RWD) for site specific waste discharge requirements if both the primary **and** secondary level conditions listed above (**Discharge Specification C.3.a and C.3.b**) are not met.
- c. Other Constituents: The discharger shall report leachable concentrations of any other waste constituents, not listed in **Discharge Specification C.3.b.** (Table 2), that may be present in concentrations that could pose a threat to water quality at the proposed disposal site.
- d. Furnish to the RWQCB, within a reasonable time, any information which the RWQCB Executive Officer may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order. The discharger shall also furnish to the RWQCB upon request, copies of all records required to be kept under this Order.

2. CHANGE IN OWNERSHIP

The discharger shall notify the RWQCB, in writing, **at least 30 days** in advance of any proposed transfer of ownership or responsibility for maintenance of a site/facility subject to this Order. The discharger shall include with such notification, written acknowledgement by the prospective purchaser or successor in responsibility executed under penalty of perjury under the laws of the state of California, that such purchaser or successor has read and understood the requirements contained herein and will accept responsibility for compliance therewith as of the date of transfer of ownership or responsibility.

3. INCOMPLETE REPORTS

Where the discharger becomes aware that it failed to submit any relevant facts in a Report of Waste Discharge (RWD) or submitted incorrect information in a RWD or in any report to the RWQCB, it shall promptly submit such facts or information.

4. ENDANGERMENT OF HEALTH AND ENVIRONMENT

The discharger shall report any noncompliance, which may endanger health or the environment. Any such information shall be provided orally to the RWQCB **within 24 hours** from the time the owner becomes aware of the circumstances. A written submission shall also be provided **within five days** of the time the owner becomes aware of the circumstances, provided that no written report need be submitted if the RWQCB waives the requirement for such written report upon timely receipt of a satisfactory oral report. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate, or prevent recurrence of the noncompliance.

5. OTHER INFORMATION

When the discharger becomes aware of a failure to submit any relevant facts in an application for Waste Discharge Requirements or submitted incorrect information in a permit application, or in any report to the RWQCB, the facts of information shall be promptly submitted.

6. FALSE REPORTING

Any person who knowingly makes any false statement, representation, or certification any record or other document submitted or required to be maintained under this Order, including monitoring reports or reports of compliance or noncompliance shall be subject to enforcement procedures as identified in the **Provision G.9.** of this Order.

7. ANTICIPATED NONCOMPLIANCE

Provide advance notice to the RWQCB of any planned changes in the facility or discharge activity that may result in noncompliance with the waste discharge requirements.

8. MONITORING AND REPORTING PROGRAM

Monitoring and analytical results shall be reported to the RWQCB as specified in the attached **Monitoring and Reporting Program No. R9-2002-342.**

9. REPORT DECLARATION

All applications, reports, or information submitted to the RWQCB shall be signed and certified as follows:

- a. The Report of Waste Discharge (RWD) shall be signed as follows:
 1. **For a corporation** - by a principal executive officer of at least the level of vice-president.
 2. **For a partnership or sole proprietorship** - by a general partner or the proprietor, respectively.
 3. **For a municipality, state, federal or other public agency** - by either a principal executive officer or ranking elected official.
 4. **For a military installation** - by the base commander or the person with overall responsibility for environmental matters in that branch of the military.
- b. All other reports required by this Order and other information required by the RWQCB shall be signed by a person designated in paragraph (a) of this provision, or by a duly authorized representative of that person. An individual is a duly authorized representative only if:
 1. The authorization is made in writing by a person described in paragraph (a) of this provision;
 2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity; and
 3. The written authorization is submitted to the RWQCB.
- c. Any person signing a document under this Section shall make the following certification:

" I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I

am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

10. RWQCB ADDRESS

The discharger shall submit reports required under this Order, and other information requested by the RWQCB, to:

Executive Officer
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, California 92123-4340
Attn: Land Discharge Unit Supervisor

E. SITE INSPECTION RESULTS

1. The discharger shall perform a **final site inspection** after the discharge of waste has been completed at the site. The results of that inspection, and any supporting documentation, shall be submitted to the RWQCB in an appendix to the final summary report required by **Section F** of this Order and Monitoring and Reporting Program R9-2002-342. The report shall contain a discussion of any significant findings regarding:
 - a) General site condition;
 - b) FCS waste piles and the condition thereof;
 - c) Disposition of FCS wastes reused/disposed at the site;
 - d) Storm water conveyance and erosion control BMPs located on and immediately off the site;
 - e) Maintenance activities at the site.

F. FINAL DISPOSITION OF WASTE

For each discharge of waste to an unclassified waste management unit the discharger shall report all information that is necessary for the RWQCB to assess compliance with the **Discharge Specifications Section C** of this Order. This information shall be reported as an appendix pursuant to **Reports To Be Filed With the RWQCB, Section C** in compliance with the schedule required in Monitoring and Reporting Program R9-2002-342.

G. PROVISIONS

1. OBLIGATION TO COMPLY

The discharger shall comply with all conditions of this Order. Any noncompliance with this Order constitutes a violation of the California Water Code and is grounds for: (a) enforcement action; or (b) termination, revocation and reissuance, or modification of this Order.

2. CORRECTION OF ADVERSE IMPACTS

The discharger shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this Order, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the noncompliance.

3. PROPER OPERATION AND MAINTENANCE

The discharger shall, at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the discharger to achieve compliance with conditions of this Order. Proper operation and maintenance includes effective performance, adequate laboratory and process controls including appropriate quality assurance procedures.

4. PROPERTY RIGHTS

This Order does not convey any property rights of any sort or any exclusive privileges, including any authorization to discharge solid waste or maintain an inactive landfill. The requirements prescribed herein do not authorize the commission of any act causing injury to persons or property, nor protect the discharger from liability under federal, state, or local laws, nor create a vested right for the owner and operator to continue the regulated activity.

5. ENTRY AND INSPECTION

The discharger shall allow the RWQCB, or an authorized representative upon the presentation of credentials, to:

- a. Enter upon the discharger premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Order;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Order;

- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and
- d. Sample or monitor at reasonable times, for the purposes of assuring compliance with this Order or as otherwise authorized by the California Water Code, any substances or parameters at any location.

6. REPOSITORY FOR WASTE DISCHARGE REQUIREMENTS

A copy of this Order shall be maintained at the local offices of the discharger and shall be available to operating personnel at all times.

7. SEVERABILITY

The provisions of this Order are severable, and if any provision of this Order or the application of any provision of this Order to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this Order, shall not be affected thereby.

8. PUBLIC NOTIFICATION

Public notification shall be completed at least **30 days** prior to the discharge (for disposal or reuse) of FCS wastes at the site. Adjacent property owners and other interested parties are to be notified of the plans for the disposal/reuse of FCS wastes. The discharger shall provide the RWQCB with written documentation of the required public notification.

9. ENFORCEMENT

In the case of an enforcement action, the following provisions shall apply:

- a. The provisions in this enforcement section shall not act as limitation on the statutory or regulatory authority of the RWQCB.
- b. Any violation of this Order constitutes violation of the California Water Code and is basis for enforcement action, termination of the order, revocation and reissuance of the Order, denial of an application for reissuance of the Order or a combination thereof.
- c. It shall not be a defense for a discharger in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Order.

- d. The California Water Code provides that any person who intentionally or negligently violates any waste discharge requirements issued, reissued, or amended by this RWQCB is subject to administrative civil liability of up to five thousand (5,000) dollars per day of violation. The Superior Court may impose civil liability of up to fifteen thousand (15,000) dollars per day of violation.
- e. The California Water Code provides that any person failing or refusing to furnish technical or monitoring program reports, as required under this Order, or falsifying any information provided in the monitoring reports is guilty of a misdemeanor.

H. NOTIFICATIONS

- 1. Definitions of terms used in this Order shall be as set forth in California Code of Regulations, Title 27.
- 2. This Order becomes effective on the date of adoption by the RWQCB and will supercede Resolution Order No. 95-63.

I, John H. Robertus, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Water Quality Control Board, San Diego Region on December 11, 2002.

TENTATIVE

JOHN H. ROBERTUS
Executive Officer